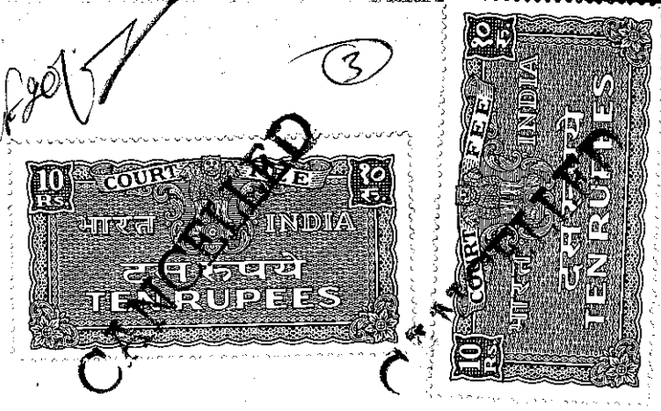


BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

M.A. No. 981 /2002 (S.B.)

APPELLANT
NON APPLICANT : Bisahuram Gond @ Bisahuram Thakur, s/o Kunwar Singh Thakur, r/o Azad Chowk, Bhilai-3 P.O. Bhilai-3, Dist Durg, C.G.

V E R S U S.

RESPONDENT : 1. Dwarika Prasad Kewat, s/o Late Mehettar Kewat, aged about 40 years, r/o village Sirsakala, in front of Public Pond, P.O. Bhilai-3 Dist. Durg, C.G.

~~Non~~(APPLICANT)

P.R. No. 2308/02
received by Shri ...
dated ...

2. Kapur Lal Sahu, aged about 29 years, s/o Bisilal, r/o A zad Chowk, Bhilai-3, P.O Bhilai-3, Dist.Durg, C.G.

Non-
(~~NON~~ APPLICANT)

APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT, 1988.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(35)

# आदेश पत्रक

मामला क्रमांक M A NO. 881/2002 सन् 200

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | 07/04/2003<br><br>Shri B.R. Ghosh, counsel for the appellant.<br><br>Heard on the question of admission and stay.<br><br>This appeal has been filed by the owner of the vehicle against the award dated 23/09/2002 under Section 140 of the Motor Vehicles Act, 1988, passed by IIIrd Additional Motor Accidents Claims Tribunal, Durg in Claim Case No.62/2002.<br><br>The contention of the learned counsel for the appellant is that since the vehicle of the appellant was not involved in any accident, the order fastening liability on the appellant is bad and liable to be set aside. In support of his contention, reliance has been placed on the statements of witness Sukhram and Tijan, who have been examined in Criminal Case No. 917/2002 which has been registered against the driver for an offence punishable under Section 304-A of the IPC. A bare perusal of the said statements makes it clear that the said witness has resiled from his earlier statement which was recorded by the police during investigation. In substance, what learned counsel for the appellant wants to submit at this stage is that since the vehicle was not involved in any accident the owner | |

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

36

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित — 2 — | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | should be exonerated. Obviously, such a finding cannot be recorded at this stage as it will prejudge the claim case in which it is not disputed that there is a specific issue as to whether the death of the claimant was on account of rash and negligent driving by the driver of the vehicle in question. That apart, the contention cannot be accepted on the basis of a statement made in a pending criminal case by a witness who has resiled from his earlier statement for even if ultimately the driver is acquitted of rashness and negligence, it will not affect the proceedings under Section 140 of the Motor Vehicles Act where an award is passed on the basis of no-fault liability. That apart, what would be the ultimate conclusion arrived at by the criminal Court, cannot be determined at this stage. Accordingly, this appeal fails and is dismissed. Consequently, I.A.No.1725/2002 for stay and I.A.No.8110/2002 for urgent hearing also stand disposed of. | Sd/-<br>P.C.Naik<br>Judge |

[पीछे देखिये